

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHESTER CURTIS MERIWETHER,

Petitioner,

Case No. 2:19-CV-12980
Honorable Linda V. Parker

v.

WILLIS CHAPMAN,

Respondent,

**ORDER GRANTING PETITIONER’S MOTION TO AMEND PETITION
FOR WRIT OF HABEAS CORPUS (ECF NO. 5)**

Petitioner Chester Curtis Meriwether has filed a *pro se* habeas corpus petition challenging his state armed robbery conviction. Petitioner is seeking to amend his petition to add issues raised in his post-conviction motions.

Federal courts should freely give leave to amend “when justice so requires.” Fed. R. Civ. P. 15(a)(2). Several factors are relevant to whether Petitioner should be allowed to amend his petition, including undue delay, undue prejudice to the opposing party, and futility of amendment. *See Coe v. Bell*, 161 F.3d 320, 341 (6th Cir. 1998). A proffered amendment in a habeas case is deemed futile if it lacks merit on its face. *See e.g., Moss v. United States*, 323 F.3d 445, 475 (6th Cir. 2003). The decision whether to grant leave to amend lies within the district court’s discretion. *Coe*, 161 F.3d at 342. Notice and substantial prejudice to the opposing

party are the critical factors in determining whether an amendment to a habeas petition should be granted. *Id.* at 341-42. Applying these standards, the Court concludes that Petitioner's motion to amend should be granted.

First, there is no indication that allowing the amendment would unduly delay these proceedings. Second, there is no evidence of bad faith on Petitioner's part in bringing the motion to amend. Third, because Petitioner has filed this motion to amend before Respondent filed an answer to the original petition, there appears to be no prejudice to Respondent if the amendment is allowed. Finally, the Court finds that the proposed amended claims arguably have merit.

Accordingly,

IT IS ORDERED that Petitioner's Motion to Amend Petition for Writ of Habeas Corpus, (ECF No. 5), is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk of the Court shall serve the amended habeas petition, (ECF No. 6), and a copy of this order on warden Chapman and the Michigan Attorney General.

IT IS FURTHER ORDERED that Respondent shall respond to Petitioner's amended petition by **April 15, 2020**.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: February 7, 2020

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, February 7, 2020, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager